

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule of the Act

BETWEEN ARATIATIA LIVESTOCK
LIMITED

(ENV-2018-CHC-29)

(and all other appellants listed in
the Schedule attached)

Appellants

AND SOUTHLAND REGIONAL
COUNCIL

Respondent

**MINUTE OF THE ENVIRONMENT COURT
Timetable directions
(25 March 2022)**

Introduction

[1] This Minute addresses the balance of provisions that were subject to consent orders, but in relation to which the court is not yet satisfied that it is able to make consent orders.

[2] A list of the provisions is attached to this Minute and labelled “A”.



Hearing

[3] I had canvassed the possibility of setting down these provisions for hearing in the week of 4 April 2022. Reflecting on this, due to ongoing COVID impacts, this is not feasible.

[4] To allow the court reading time, the disputed provisions hearing will now commence Monday 11 April 2022.

Rules 13, 15 and Appendix E

[5] Responding to the court's concern that the methods may permit cumulative increases in sediment, Southland Fish and Game Council ('Fish & Game') is granted leave to file supplementary evidence.¹ If correct, this appears an unintended consequence of the methods.

[6] I will make timetable directions enabling Fish & Game to file supplementary evidence. Subject to Ms McArthur's availability, the evidence – including supplementary evidence from Fish & Game's planner, Mr B Farrell – is to be filed before the commencement of the hearing.

[7] If Fish & Game's evidence is contested, all other interested parties are to file supplementary evidence in reply **two (2) working days** prior to their witness(es) being called. Mr McCallum-Clark will do likewise and respond when he is recalled on the final day of the hearing.

Policies 15A, 15B and 16A

[8] In its Minute dated 10 March 2022, the court set out concerns held in relation to Policies 15A, 15B and 16A.

¹ Southland Fish and Game Council and Royal Forest and Bird Protection Society of New Zealand Inc, submissions for 'all of parties hearing' dated 24 March 2022.

[9] We remain of the view that there are fundamental problems with the drafting of Policy 16A. Policy 16A is irreconcilable with Policies 15A and 15B.²

[10] In relation to Policy 15B, we are not yet satisfied that the policy will implement the objectives, including the directive Objective 6.

[11] The court has no view on the content of the policy, it is simply striving to understand what is the problem that the policy is working on. If it assists, it appears to us that:

- (a) for activities caught by Policy 15B sub-clause (1) and (1a) the intention may be that water quality is **maintained** notwithstanding the word ‘improve’ in the chapeau:
 - (i) sub-clause (1) talks about avoiding the ‘adverse effects’ that would ‘exacerbate’ the exceedance of certain guidelines;
 - (ii) sub-clause (1a) addresses the adverse effects of ‘other new discharges’ which likewise exacerbate the exceedance of the standards. During the hearing Mr Maw advised ‘other new discharges’ means new point source discharges to land and secondly, diffuse discharges to land.
- (b) if water quality is to be maintained (as opposed to improved) by the above activities, would this be made clearer if the activities are addressed in a separate policy from replacement activities? The parties’ advice that it is replacement activities and not new activities, which improve water quality may lend support for this approach;³
- (c) we make no comment in relation to the amendment proposed by Mr McCallum-Clark to sub-clause (1a) where he is endeavouring to create an exception for two groups of activities.

² Minute ‘Consent documentation’ dated 10 March 2022 at [50].

³ For support see for example, Balance Agri-Nutrients Ltd submissions dated 24 March 2022 at [20]; Ngā Rūnanga submissions dated 24 March 2022 at [33].

[12] We will direct the Regional Council to file supplementary evidence on Policies 15A, 15B and 16A prior to the commencement of the hearing. Any party proposing further amendment is to address scope. We anticipate this will be planning (and not technical) evidence, but that is a matter for the parties. All other parties are to file supplementary evidence in reply two (2) working days prior to their witness(es) being called.

Directions

[13] The court directs:

- (a) By **Friday 1 April 2022**, all parties intending to file supplementary evidence are to file a memorandum identifying the relevant witness(es) by discipline.

Rules 13, 15 and Appendix E

- (b) By **Friday 8 April 2022**, Fish & Game are to file supplementary evidence; and any party wishing to file evidence in reply is to do so **two (2) working days** in advance of their witness being called.

Policies 15A, 15B and 16A

- (c) By **Wednesday 6 April 2022**, the Regional Council is to file supplementary evidence; and any party wishing to file evidence in reply is to do so **two (2) working days** in advance of their witness being called.

[14] Leave is reserved for the parties to apply for further (or other) directions.

Jane S.



J E Borthwick
Environment Judge
Issued: 25 March 2022

“A”

[15] List of provisions the subject matter of this Minute:

- (a) Policy 15A;
- (b) Policy 15B;
- (c) Policy 16A;
- (d) Policy 17;
- (e) Policy 17A;
- (f) Policy 20;
- (g) Policy 28;
- (h) Policy 30;
- (i) Rule 13;⁴
- (j) Rule 15;
- (k) Appendix E.

⁴ Rule 13 is a provision agreed following expert conferencing and as such is not the subject matter of the application for consent orders.

Schedule – List of appellants

ENV-2018-CHC-26	Transpower New Zealand Limited
ENV-2018-CHC-27	Fonterra Co-operative Group Limited
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co Limited
ENV-2018-CHC-31	Gore District Council & others
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish and Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand (Southland Province) Inc
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-44	Wilkins Farming Co Limited (previously Campbell's Block Limited)
ENV-2018-CHC-45	Wilkins Farming Co Limited (previously Robert Grant)
ENV-2018-CHC-46	Southwood Export Limited & Others
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of New Zealand Incorporated